



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,104	05/09/2001	Gerhard Frisch	514413-3875	5026

20999 7590 06/27/2003
FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

EXAMINER

PRYOR, ALTON NATHANIEL

ART UNIT	PAPER NUMBER
1616	14

DATE MAILED: 06/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 09/852,104	Applicant(s) Frisch et al
Examiner Alton Pryor	Art Unit 1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on Apr 15, 2003

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

4) Claim(s) 1-43 is/are pending in the application.

4a) Of the above, claim(s) 20-22, 24, and 25 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-3, 5, 6, 9-18, 23, 32-36, 42, and 43 is/are rejected.

7) Claim(s) 4, 7, 8, 19, 26-31, and 37-41 is/are objected to.

8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) The translation of the foreign language provisional application has been received.

15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s). 6

4) Interview Summary (PTO-413) Paper No(s). _____

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____

Claim Objection under 37 C FR 1.75(c)

Claim 16 is objected to under 37 C FR 1.75© as being in improper form because a multiple dependent claim should refer to others in the alternative only. See MPEP § 608.01(n).

Claim Rejection under 35 U.S.C. 103(a)

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3,5,6,9-16,17,18,23,32-36,42,43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Innami et al (US 5,428,000; 6/27/95) on record in view of Rueegg (WO 200000031; 1/6/00) on record. Innami discloses a method of controlling the growth of weeds comprising applying to the weeds a herbicide composition comprising an anionic (broad leaf) and a nonionic (narrow leaf) herbicide. See column 10 line 53 - column 12 line 2. Innami teaches that the broad leaf herbicides are sulfonylureas such as chlorimuron-ethyl and thifensulfuron. See column 9 lines 24-32. Innami teaches that cationic-polymeric compounds having a quaternary ammonium salt component are added to the herbicidal composition. The addition of the cationic polymer reduces or inhibits the antagonistic action between the broad and narrow leaf herbicides. See abstract. The cationic polymer is made up of two monomers; wherein, one monomer contains the quaternary ammonium salt. The ratio of the monomer containing the quaternary ammonium group and the monomer containing no quaternary ammonium salt is 5:95 to 100:0. The molecular weight of the polymer ranges from 10,000 to 1,000,000. Innami teaches that the cationic polymer is hydrophilic meaning that the polymer is water soluble. Innami teaches that adjuvants can be

added to the herbicidal composition. Innami teaches that the composition is applied to the soil or directly to the plant to control weed growth. See abstract, column 2 lines 27-43, column 3 lines 3-35. Innami does not teach the composition / method comprising the safener, mefenpyr-diethyl and the instant percentages or molecular weight of the polymer being less than 10,000. However, Rueegg teach a herbicidal composition / method comprising mefenpyr-diethyl. See abstract. It would have been obvious to one having ordinary skill in the art to add the mefenpyr-diethyl taught by Rueegg to composition / method taught by Innami. One would have been motivated to do this because prior art references teach herbicidal compositions and herbicidal methods. With respect to amounts / molecular weight one having ordinary skill in the art would have been expected to determine the optimum amounts and molecular weights. One would have been motivated to do this in order to make an invention that would have been effective in reducing the antagonism between broad and narrow leaf herbicides.

Claim Objection / Allowable Subject Matter

Claims 4,7,8,19,26-31,37-41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art does not teach or suggest the instant invention comprising the metallic sulfonylureas of claim 4, the polymer units of claim 7 and 8, and the hydroxybenzonitriles of claim 19. The elected composition / method comprising iodosulfuron-methyl, Mirapol, Genapol LRO and bromoxynil is allowable.

Telephonic Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alton Pryor whose telephone number is (703) 308-4691. The examiner can normally be reached on Monday through Friday from 8:00 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page, can be reached on (703) 308-2927. The fax phone number for this Group is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1235.



Alton Pryor

ALTON N. PRYOR
Primary Examiner, Art Unit 3616
PRIMARY EXAMINER

6/22/03